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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,809	03/30/2004	Franz Paschke	4881-0107P	2842
2292	7590	08/08/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,809

Applicant(s)

PASCHKE, FRANZ

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2,7,9 and 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/30/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 2, 7, 9 and 11-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. Election was made without traverse in the reply filed on May 18, 2006.

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

3. Claims 1, 3-6, 8 and 10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document. For example:

- a. In claim 1, lines 1 and 2, the term "the telescopic mast" lacks antecedent basis within the claim.
- b. In the last line of claim 1, the term "pressure bias" used within the phrase "a pressure bias of the mast" is not fully understood. As this appears to be the limitation relied upon for the patentable subject matter of the claims, it should be clearly defined. The term "pressure bias" was not defined in technical dictionaries or in the applicant's specification. It was not found in other patent documents. How is applicant using the term?
- c. In the last line of claim 1, in the phrase "in the area of the tensioning means guide" the terms "the area" and "the tensioning means guide" lack antecedent basis within the claim.
- d. In claim 3, the terms "the upper mast area" and "the lower portion" lack antecedent basis within the claims.
- e. Also in claim 3, it is confusing to have two different locations denoted with the same term, the outer bearing point.
- f. In claim 4, the term "the upper mast area" lacks antecedent basis within the claims.
- g. In claim 5, the terms "the upper run", "the upper portion" and "the crane superstructure" lack antecedent basis within the claims.
- h. In claim 6, the terms "the area", "the crane superstructure" and "the level luffing plane" lack antecedent basis within the claims.
- i. In claim 6, the limitations "can be fastened" and "in particular are arranged" render the claims indefinite as failing to positively claim the structure of the invention.
- j. Also in claim 6, it is unclear as to how the tensioning means would be considered as guided to the upper portion of the mast by the winch. The location of the winch would not have it serve as a guide to the upper portion of the mast.
- k. In claim 6, it is unclear as to how what applicant is considering as a "level luffing plane" A

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luffing plane is not level as all luffing planes are vertical planes.

- l. In claim 8, the term "the upper run" lacks antecedent basis within the claims.
- m. In claim 10, the terms "the lowermost extending telescopic portion", "the lower portion of the mast", "the base portion" and "the foot portion" lack antecedent basis within the claims.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirement of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1, 3, 4, 8 and 10, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Ginster et al (GB 2096097 A, an English equivalent of DE 3113763, cited by applicant). Ginster et al shows a tensioning system for a mobile telescopic crane, in which a telescopic mast (telescopic jib 1 and 1a-1c) is outwardly braced via a tensioning means (cables 9a and/or 9b), characterized in that the tensioning means (9a and/or 9b) is guided along or over the telescopic mast (1, 1a-1c) and fastened in such a way that a pressure bias of the mast is created in an area of a tensioning means guide (sheaves 10a and/or 10b).

The tensioning means (9a and/or 9b) is guided from an outer bearing point (at the winches 12a or 12b) to a joining point (10a or 10b) in the upper mast area and then to an outer bearing point (also at the winches 12a or 12b) in a lower portion of the mast (1, 1a-1c), as recited in claim 3. The tensioning means (9a and/or 9b) is turned and deflected by a roller (10 or 10b) defining the turning point, as recited in claim 4. Two tensioning means (9a and 9b) are provided for the upper run of the mast, as recited in claim 8. The outer bearing points are arranged on a lower portion (1) of the mast (1, 1a-1c), as recited in claim 10.

6. Claims 1, 3-5 and 10, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Weiskopf. Weiskopf shows a tensioning system for a mobile telescopic crane, in which a telescopic mast (jib 15) is outwardly braced via a tensioning means (guy rope 22), characterized in that the tensioning means (22) is guided along or over the telescopic mast (15) and fastened in such a way that a pressure bias of the mast is created in an area of a tensioning means guide (sheave blocks 25 or 26).


The tensioning means (22) is guided from an outer bearing point (at sheave block 24) to a joining

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point (at 25) in the upper mast area (not the term upper area is broad) and then to an outer bearing point (also at 24) in a lower portion of the mast (15), as recited in claim 3. The tensioning means (22) is turned and deflected by a roller (25) defining the turning point, as recited in claim 4. The upper run of the mast is braced and biased by the tensioning means (22) using a winch (12) and an articulated pylon (21), as claim 5 is best understood. The outer bearing points (24) are arranged on a lower portion of the mast (15), as recited in claim 10.

7. Claims 1, 5, 6 and 8, as best understood, are rejected under 35 U.S.C. § 102(e) as being anticipated by Irsch et al. Irsch et al shows a tensioning system for a mobile telescopic crane, in which a telescopic mast is outwardly braced via a tensioning means (29), characterized in that the tensioning means (29) is guided along or over the telescopic mast and fastened in such a way that a pressure bias of the mast is created in an area of a tensioning means guide (at deflector sheave 30). The upper run of the mast is braced and biased by the tensioning means (29) using a winch (27) and an articulated pylon (13), as claim 5 is best understood. The pylon (13) is fastened and swiveled in the area of the crane superstructure (note the term area is broad) and extends obliquely to a level plane or a luffing plane, as claim 6 is best understood. There are two tensioning means, one on each side of the mast, as recited in claim 8.

8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
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